

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE NATIONAL FOOTBALL LEAGUE
PLAYERS' CONCUSSION INJURY
LITIGATION

Kevin Turner and Shawn Wooden,
*on behalf of themselves and
others similarly situated,*

Plaintiffs,

v.

National Football League and
NFL Properties LLC,
successor-in-interest to
NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO:
ALL ACTIONS

No. 2:12-md-02323-AB

MDL No. 2323

Hon. Anita B. Brody

Civ. Action No. 14-00029-AB

**CLASS COUNSEL'S RESPONSE TO RENEWED MOTION FOR
RULING ON AND ELIMINATION OF 5% HOLD-BACK ON
MONETARY AWARDS AND REQUEST FOR EXPEDITED HEARINGS**

The law firm of Cummings, McClorey, Davis, & Acho, P.L.C. (“Cummings McClorey”) has filed what is yet another motion that seeks (i) an expedited hearing on Class Counsel’s request for adoption of a set-aside from class members’ Monetary Awards¹; (ii) the exemption of particular categories of class members from any set-aside, if not outright denial of a set-aside; (iii) the elimination of the Court’s provisional holdback² and release of funds collected pursuant to it; or (iv) some combination of the foregoing relief. *See* ECF No. 11453.

This now makes the fifth motion filed by Cumming McClorey or by two other law firms—Steckler Gresham Cochran PLLC; and Goldberg, Persky & White, P.C.—either requesting or joining in requests for the aforementioned relief. *See* ECF Nos. 10581, 10654, 11372, 11396, 11453. These motions are in addition to the copious submissions that surrounded Class Counsel’s holdback request itself and Class Counsel’s July 2020 motion to supplement the evidentiary record concerning the set-aside request. *E.g.*, ECF Nos. 7161 at 6-7, 7205 at 5, 7282, 7299, 7344, 7346, 7351, 7355 at 66-67, 7356, 7359, 7370 at 3-4, 7371, 7373, 7401-1, 11127, 11133, 11135-41, 11154.

Nothing in this latest motion warrants Class Counsel’s diversion of time and resources to further burden the Court with point-by-point responses to motions that are not only meritless but also have become repetitive and redundant. Either as to the aforementioned motions or the underlying holdback request, the Court has by now received more submissions than are necessary—or even appropriate for that matter. Class Counsel’s resources and efforts are better focused on assisting the Class. Accordingly, Class Counsel respectfully adopts and refers the

¹ *See* ECF Nos. 7151 at 2, 7151-1 at 70-75, 7151-2 at 31-35 (¶¶ 101-19).

² *See* ECF Nos. 9860 (at 2 & n.1, 8-9, 17-20), 10019 (at 4 n.2, 25), 10378 (at 1 n.1); *see also* ECF Nos. 9862 at 8 n.5, 10104.

Court to his responses to the earlier motions of Cummings McClorey and the other two firms. *See* ECF Nos. 10596, 10675, 11403.

Finally, while he does not oppose Cummings McClorey's latest request for expedited resolution of the set-aside request (couched as a request for an expedited hearing), Class Counsel at the same time recognizes, as he has previously, that the timing of a decision is a matter entirely committed to the Court's sound judgment and discretion. As to the remaining aspects of Cummings McClorey's motion, the Court should deny the motion for the reasons set forth in Class Counsel's earlier submissions.

Dated: August 17, 2021

Respectfully submitted,

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